



House of Representatives

General Assembly

File No. 109

February Session, 2002

Substitute House Bill No. 5206

House of Representatives, March 22, 2002

The Committee on Energy and Technology reported through REP. GIANNAROS of the 21st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING NONDISCRIMINATORY ACCESS TO THE
PUBLIC RIGHTS-OF-WAY FOR TELECOMMUNICATIONS ENTITIES
AND DEFINING THE PUBLIC RIGHTS-OF-WAY FOR CERTAIN
PUBLIC UTILITY PURPOSES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 16-247a of the general statutes is
2 amended by adding subdivisions (8) and (9) as follows (*Effective*
3 *October 1, 2002*):

4 (NEW) (8) "Telecommunications rights-of-way user" means (A) a
5 person certified pursuant to section 16-247g controlling or seeking to
6 control facilities in the public rights-of-way that are used or intended
7 to be used for the provision of any telecommunications service
8 authorized by section 16-247c, (B) any person recognized by the
9 Federal Communications Commission controlling or seeking to control
10 facilities in the public rights-of-way that are used or intended to be
11 used for transporting interstate telecommunications services and

12 information services that will benefit consumers of the state, including,
13 but not limited to, wired or wireless Internet, voice or data services or
14 any other similar services recognized by the Federal Communications
15 Commission, or (C) a telephone company.

16 (NEW) (9) "Public rights-of-way" means the areas on, below or
17 above public lands, waters or other public property, public roadways,
18 highways, streets, bridges, sidewalks, and other publicly-owned
19 dedicated rights-of-way for travel purposes, and utility easements on
20 public land granted by the state or any municipality. For the purposes
21 of this section, no person authorized to occupy the public rights-of-
22 way shall occupy such public rights-of-way without first obtaining
23 consent of the state or municipal authorities having jurisdiction over or
24 maintaining such public rights-of-way.

25 Sec. 2. Section 16-247h of the general statutes is repealed and the
26 following is substituted in lieu thereof (*Effective October 1, 2002*):

27 The department shall authorize [any certified telecommunications
28 provider] telecommunications rights-of-way users to install, maintain,
29 operate, manage or control poles, wires, conduits or other fixtures
30 [under or over any public highway or street for the provision of
31 telecommunications service authorized by section 16-247c,] within the
32 public rights-of-way if such installation, maintenance, operation,
33 management or control is in the public interest, which includes but is
34 not limited to, facilitating the efficient development and deployment of
35 an advanced telecommunications infrastructure, facilitating maximum
36 network interoperability and interconnectivity, and encouraging
37 shared use of existing facilities and cooperative development of new
38 facilities where legally possible and technically and economically
39 feasible. The department shall adopt regulations, in accordance with
40 chapter 54, governing such use of the public [right-of-way] rights-of-
41 way, including, without limitation, design and construction standards
42 and specifications to protect the public safety and implement the
43 purposes of the goals set forth in sections 16-247a to 16-247c, inclusive,
44 16-247e to 16-247g, inclusive, as amended, this section and section

45 16-247j.

46 Sec. 3. Section 16-235 of the general statutes is repealed and the
47 following is substituted in lieu thereof (*Effective October 1, 2002*):

48 Except as provided in section 16-243, the selectmen of any town, the
49 common council of any city and the warden and burgesses of any
50 borough shall, subject to the provisions of section 16-234, within their
51 respective jurisdictions, have full direction and control over the
52 placing, erection and maintenance of any such wires, conductors,
53 fixtures, structures or apparatus, including the relocation or removal of
54 the same and the power of designating the kind, quality and finish
55 thereof, but no authority granted to any city or borough or a town
56 planning, zoning, inland wetland, historic district, building, gas, water
57 or electrical board, commission or committee created under authority
58 of the general statutes or by virtue of any special act, shall be
59 construed to apply to so much of the operations, plant, building,
60 structures or equipment of any public service company as is under the
61 jurisdiction of the Department of Public Utility Control, or the
62 Connecticut Siting Council, but zoning commissions and inland
63 wetland agencies may, within their respective municipalities, regulate
64 and restrict the proposed location of any steam plant, gas plant, gas
65 tank or holder, water tank, electric substation, antenna, tower or earth
66 station receiver of any public service company not subject to the
67 jurisdiction of the Connecticut Siting Council. Any local body
68 mentioned in this section and the appellate body, if any, may make all
69 orders necessary to the exercise of such power, direction or control,
70 which orders shall be made within thirty days of any application and
71 shall be in writing and recorded in the records of their respective
72 communities, and written notice of any order shall be given to each
73 party affected thereby. Each such order shall be subject to the right of
74 appeal within thirty days from the giving of such notice by any party
75 aggrieved to the Department of Public Utility Control, which, after
76 rehearing, upon notice to all parties in interest, shall as speedily as
77 possible determine the matter in question and shall have jurisdiction to
78 affirm or modify or revoke such orders or make any orders in

79 substitution thereof. In addition to obtaining approval of the
80 department, any company planning to site a generator or other power
81 supply mounted on or in the ground that is part of a
82 telecommunications or community antenna television system shall
83 notify and consult with local authorities with respect to such
84 construction or installation at least thirty days prior to commencing
85 such installation.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>

ET *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

There is no fiscal impact for the Department of Public Utility Control associated with authorizing telecommunications rights-of-way users to install, operate and control, pipes and wires within the public rights-of-way.

OLR Bill Analysis

sHB 5206

AN ACT CONCERNING NONDISCRIMINATORY ACCESS TO THE PUBLIC RIGHTS-OF-WAY FOR TELECOMMUNICATION ENTITIES AND DEFINING THE PUBLIC RIGHTS-OF-WAY FOR CERTAIN PUBLIC UTILITY PURPOSES**SUMMARY:**

This bill broadens the (1) types of telecommunications companies that can obtain access to public rights-of-way and (2) definition of rights-of-way in this context.

The bill requires a company that plans to site a ground-mounted generator or other power supply source for a telecommunications or cable TV system to notify and consult with local authorities at least 30 days before installing the generator, in addition to getting Department of Public Utility Control (DPUC) approval. (Such devices are used to provide power to fiber optic cable and telecommunications systems.) It appears that this provision applies to generators installed by cable TV and telephone companies but not to other types of DPUC-certified telecommunications companies.

EFFECTIVE DATE: October 1, 2002

ACCESS TO RIGHTS-OF-WAY

By law, DPUC must authorize companies it certifies to install, maintain, operate, manage, or control wires and other fixtures above or below public streets and highways to provide intrastate telecommunications services if DPUC finds that this is in the public interest. DPUC certifies long-distance carriers and other companies that provide intrastate telecommunications services; the Federal Communications Commission (FCC) regulates companies that provide interstate services.

The bill expands the access provision to cover (1) telephone companies (Southern New England Telephone and Verizon, which serves part of Greenwich, both of which have similar powers under another statute)

and (2) any entity that the FCC has recognized as controlling or seeking to control facilities in public rights-of-ways used or intended to be used to provide interstate telecommunications and information services that will benefit Connecticut consumers. Examples of such entities are companies that provide wired or wireless Internet, voice, or data services recognized by the FCC.

The bill also expands the scope of public rights-of-way with regard to this provision. Under the bill, these include areas on, below, or above public lands, waters, or other public property; public roadways, highways, streets, bridges, sidewalks, and other publicly-owned dedicated rights-of-way for travel purposes; and utility easements granted by the state or a municipality on public land. The bill requires that an entity obtain the consent of the state or municipal authorities having jurisdiction over or maintaining such rights of-way before occupying them.

By law, DPUC must adopt regulations governing the use of these rights-of-way. The bill appears to require DPUC to amend these regulations to reflect the expanded definitions.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 15 Nay 0